



U.S. Department  
of Transportation

Federal Aviation  
Administration

Eastern Region  
Regional Counsel  
Telephone: 718 553-3258  
Facsimile: (718) 995-5699

1 Aviation Plaza  
Room 561  
Jamaica, NY 11434

MAR 9 2005  
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Federal Aviation Administration

800 Independence Avenue, S.W. FAA-2005-20639-1

Washington, D.C. 20591

Attn: Hearing Docket Clerk, AGC-430

Wilbur Wright Building - Room 2014

RECEIVED

MAR 14 2005

HEARING DOCKET

ATTN: HEARING DOCKET CLERK

CP05EA0009

Re: In the Matter of J E RHOADS AND SONS

2005-20639-1

Docket No. 2004EA700876

Enclosed herein please find a copy of a request for hearing and the original and one copy of the FAA's Complaint in the above-entitled action for filing, together with proof of service upon the Respondent.


The FAA requests that the hearing in this matter be held in the New York area, and expects that the hearing will last one day.

Please address all communications for the Federal Aviation Administration to the attention of Zachary M. Berman, Office of the Regional Counsel, 1 Aviation Plaza Room 561 Jamaica, NY 11434.

Sincerely,

Loretta E. Alkalay  
Regional Counsel

By:

  
Zachary M. Berman  
Attorney

Enclosures

cc: AEA-700/NY-CASFO

Regional Counsel for the Eastern Region  
Federal Aviation Administration  
1 Aviation Plaza  
Room 561  
Jamaica, NY 11434

Date

2/22/05

J E RHOADS AND SONS - 2004EA700876  
Subject: Final Notice of Proposed Civil Penalty  
Response Attachment

In reply to your Final Notice of Proposed Civil Penalty J E RHOADS AND SONS elects to proceed as indicated by its check mark beside the numbered paragraph below:

1. ☐ J E RHOADS AND SONS hereby submits the amount of the proposed civil penalty with the understanding that an Order Assessing Civil Penalty will be issued in that amount.
2. ☒ J E RHOADS AND SONS hereby requests a formal hearing in accordance with Section 13.16 of the Federal Aviation Regulations.

By sending this form to the Federal Aviation Administration, Eastern Region, J E RHOADS AND SONS also hereby certifies that a copy of this form has been filed with the Hearing Docket Clerk (Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, S.W., Room 924A, Washington, DC 20591, Attention: Hearing Docket Clerk).

\*\* Please note that J E RHOADS AND SONS will not be entitled to a hearing if it files this form with the Federal Aviation Administration, Eastern Region, WITHOUT having filed this form or a written request for a hearing with the HEARING DOCKET CLERK.

ATTORNEY/REPRESENTATIVE

Name:

RENE MORF

Firm:

J E RHOADS & SONS

Address:

210 MEISTER AVE, BRANCHBURG, NJ 08876

Phone No.

(908) 429-4100

RENE MORF

MAV

2/22/05

MAR 1 2005

U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
OFFICE OF HEARINGS  
WASHINGTON, D.C.

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In the Matter of J E RHOADS AND SONS

2004EA700876  
Judge Not Assigned

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COMPLAINT

The Federal Aviation Administration (FAA), by counsel, hereby files its Complaint, pursuant to Rule 208 of the Rules of Practice (14 C.F.R. 13.208), and states as follows:

I

Respondent, J E RHOADS AND SONS, was advised through a Final Notice of Proposed Civil Penalty that the FAA proposed to assess a civil penalty in the amount of \$2,000. On February 28, 2005, Respondent submitted a written demand for a hearing.

II

1. On or about August 13, 2004, agents of the Federal Aviation Administration (FAA) conducted a comprehensive assessment of J E Rhoads and Sons (hereinafter "the assessment").
2. During the assessment, it was discovered that J E Rhoads and Sons did not have any records indicating training for one of its employees, one Roy Jens (hereinafter "Mr. Jens").
3. During the assessment, it was discovered that on or about May 21, 2004, Mr. Jens had handled the preparation and offering of a shipment containing Hazardous Materials (HAZMAT) to Federal Express for transport by air (hereinafter "the shipment").

4. Specifically, the shipment contained Ethyl Methyl Ketone, Class 3, UN 1193.

### III

By reason of the foregoing facts and circumstances, Respondent violated the following section(s) of the Department of Transportation Hazardous Materials Regulations:

1. Section 172.704(d), which states that a record of current training, inclusive of the preceding three years, in accordance with this section shall be created and retained by each hazmat employer for as long as that employee is employed by that employer as a hazmat employee and for 90 days thereafter. The record shall include: (1) the hazmat employee's name; (2) the most recent training completion date of the hazmat employee's training; (3) a description, copy, or the location of the training materials used to meet the requirements in paragraph (a) of this section; (4) the name and address of the person providing the training; and (5) certification that the hazmat employee has been trained and tested, as required by this subpart.

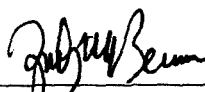
### IV

1. Pursuant to 49 U.S.C. §5123, Respondent is subject to a civil penalty of at least \$250 but not more than \$30,000 for each of the violations alleged.
2. Under the facts and circumstances of this case, a civil penalty of \$2,000 is appropriate.

WHEREFORE, the FAA, by counsel, respectfully requests that the Administrative Law Judge enter an order that Respondent be assessed a civil penalty in the amount of \$2,000.

Respectfully submitted,

Loretta E. Alkalay  
Regional Counsel

By:   
Zachary M. Berman  
Attorney

Federal Aviation Administration  
1 Aviation Plaza  
Room 561  
Jamaica, NY 11434  
718 553-3258  
(718) 995-5699

**NOTE:**

**The Rules of Practice for this proceeding are set forth in Part 13, Subpart G, of the Federal Aviation Regulations (14 C.F.R. Part 13).**

**The Rules of Practice provide that Respondent must file a written answer to this Complaint, or a written Motion to Dismiss if appropriate, not later than 30 days after the date shown on the Certificate of Service. A general denial is deemed a failure to file an answer (Section 13.209(e)).**

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Complaint has been placed this date in the United States mail, postage prepaid, by Certified Mail - Return Receipt Requested addressed as follows:

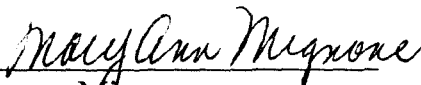
Rene Morf  
J E Rhoads & Sons  
210 Meister Ave  
Branchburg, NJ 08876

Federal Aviation Administration (Original and one copy)  
800 Independence Avenue, S.W.  
Washington, D.C. 20591  
Attn: Hearing Docket Clerk, AGC-430  
Wilbur Wright Building – Room 2014

~IF FILING BY FEDERAL EXPRESS

Federal Aviation Administration (Original and one copy)  
600 Independence Avenue, SW  
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Washington, DC 20591  
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Maryann Mignone  
Legal Technician  
Federal Aviation Administration  
Office of Regional Counsel  
1 Aviation Plaza  
Room 561  
Jamaica, NY 11434

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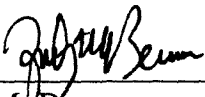
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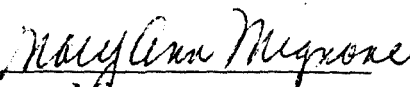
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